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JUN 06 2011
OFFICE OF PETITIONS

In re Application :
Fischer, et al. :
Application No. 10/733,251 : DECISION ON PATENT TERM
Filed: December 12, 2003 : ADJUSTMENT
Attorney Docket No. 12587- :
0040001 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 10, 2011, requesting correction of the initial determination of patent term adjustment (PTA) from one thousand three hundred thirty-six (1336) days to one thousand four hundred twelve (1412) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand four hundred twelve (1412) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 22, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is one thousand three hundred thirty-six (1336) days. On May 10, 2011, Applicants timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand four hundred twelve (1412) days.

¹ Applicants filed the application for patent term adjustment prior to the payment of the issue fee.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one thousand three hundred thirty-six (1336) days based on an adjustment for PTO delay of one thousand four hundred forty-seven (1447) days pursuant to 37 C.F.R. § 1.703(a)(1), and ninety-nine (99) days pursuant to 37 C.F.R. § 1.703(a)(2), reduced by Applicants' delay of forty-two (42) days pursuant to 37 C.F.R. § 1.704(b), and sixty-two (62) and thirty (30), and seventy-six (76) days pursuant to 37 C.F.R. § 1.704(c)(8). The adjustment of 76 days is at issue.

Applicants assert entitlement to a patent term adjustment of one thousand four hundred twelve (1412) days on the basis that the PTO improperly assessed Applicants a delay of seventy-six (76) days for filing a Supplemental Amendment on December 30, 2010, after Applicants had filed an Amendment on October 16, 2010.

A review of the application file reveals that the Supplemental Amendment filed on December 30, 2010 contained language stating that it was being filed in response to a request from the Examiner.


In view of the above, it is concluded that no applicant delay should have been assessed for the December 30, 2010 Amendment.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **one thousand four hundred twelve (1412) days** (1546 (1447+99) days of PTO delay, reduced by 134 (42+62+30) days of applicant delay).

Receipt of the \$200 fee is acknowledged.

The application file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight
Director
Office of Petitions

Enc: updated PAIR screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 10733251 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10733251

Application Filing Date: 12/12/2003	Overlapping Days Between (A and B) or (A and C): 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 1546
A Delays: 1546	PTO Manual Adjustment: 76
B Delays: 0	Applicant Delay (APPL): 210
C Delays: 0	Total PTA (days): 1412

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
117	06/03/2011		P020	Adjustment of PTA Calculation by PTO	76		0
105	02/22/2011	11/15/2010	MM/ =	Mail Notice of Allowance	00		78
104	02/15/2011		IREV	Issue Revision Completed			0
103	02/15/2011		OVER	Document Verification			0
102	02/15/2011		N/ =	Notice of Allowance Data Verification Completed			0
101	02/14/2011		EXA	Examiner's Amendment Communication			0
100	02/14/2011		CNTA	Allowability Notice			0
97	07/09/2011		EHL_NTR	Email Notification			0
96	02/09/2011		HEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
95	02/02/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
94	01/05/2011		EHL_NTR	Email Notification			0
93	01/05/2011		HEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
91	12/30/2010		FWDX	Date Forwarded to Examiner			0
90	12/30/2010	07/15/2010	SA	Supplemental Response		169	78
92	12/28/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
89	10/19/2010		FWDX	Date Forwarded to Examiner			0
88	10/15/2010		SA	Supplemental Response			0
87	09/16/2010		FWDX	Date Forwarded to Examiner			0
86	09/15/2010		SA	Supplemental Response			0
85	09/10/2010		EHL_NTR	Email Notification			0
83	09/10/2010		HEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
84	09/09/2010		EHL_NTR	Email Notification			0
81	09/08/2010		HEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
82	09/07/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
80	06/30/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
79	07/19/2010		FWDX	Date Forwarded to Examiner			0
78	07/15/2010		A	Response after Non-Final Action			0
77	04/15/2010		ELC_RVW	Electronic Review			0
76	04/15/2010		EHL_NTR	Email Notification			0
75	04/15/2010		MCTNF	Mail Non-Final Rejection			0
74	04/12/2010		CTNF	Non-Final Rejection			0
73	02/18/2010		FWDX	Date Forwarded to Examiner			0
70	02/18/2010		ABN9	Disposal for a RCE / CPA / R129			0
72	02/17/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
71	02/17/2010	11/17/2009	RCEX	Request for Continued Examination (RCE)			67
69	02/17/2010		XI/G	Request for Extension of Time - Granted			0
68	02/17/2010		WOL	Workflow - Request for RCE - Begin			0
67	11/17/2009		N/AP	Notice of Appeal Filed			0
66	11/16/2009		EHL_NTR	Email Notification			0
65	11/16/2009		MSADV	Mail Supplemental Advisory Action			0
64	11/09/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
63	11/09/2009		SADV	Supplemental Examiner Action			0
62	11/05/2009		EHL_NTR	Email Notification			0
61	11/05/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
60	11/02/2009		CTAV	Advisory Action (PTOL-303)			0
59	10/23/2009		FWDX	Date Forwarded to Examiner			0
58	10/21/2009		A/NE	Amendment after Final Rejection			0
57	08/18/2009		ELC_RVW	Electronic Review			0
56	08/18/2009		EHL_NTR	Email Notification			0
55	08/18/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
54	08/13/2009		CTFR	Final Rejection			0
52	06/15/2009		FWDX	Date Forwarded to Examiner			0
53	06/10/2009		CS14	New or Additional Drawing Filed			0
51	06/10/2009	04/29/2009	A	Response after Non-Final Action		52	47
50	06/03/2009		EHL_NTR	Email Notification			0
49	06/02/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
48	05/30/2009		FWDX	Date Forwarded to Examiner			0
45	05/22/2009		EHL_NTR	Email Notification			0
44	05/22/2009		HEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
43	05/14/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
47.1	04/29/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
47	04/29/2009		A	Response after Non-Final Action			0
46	04/29/2009		CS14	New or Additional Drawing Filed			0
41	01/29/2009		ELC_RVW	Electronic Review			0
39	01/29/2009	02/12/2005	EHL_NTR	Email Notification			0
38	01/26/2009		MCTNF	Mail Non-Final Rejection		1412	0.5
31	01/13/2009		CTNF	Non-Final Rejection			0
30	12/15/2008		DOCK	Case Docketed to Examiner in GAU			0
29	07/07/2008		DOCK	Case Docketed to Examiner in GAU			0
28	04/07/2008		DOCK	Case Docketed to Examiner in GAU			0
27	10/17/2007		WS25	Withdraw Flagged for 5/25			0
26	10/17/2007		WS25	Withdraw Flagged for 5/25			0
25	10/15/2007		FS25	Flagged for 5/25			0
24	10/15/2007		FS25	Flagged for 5/25			0
23	04/04/2007		DOCK	Case Docketed to Examiner in GAU			0
22	02/08/2007		DOCK	Case Docketed to Examiner in GAU			0
21	03/17/2006		DOCK	Case Docketed to Examiner in GAU			0
20	09/27/2004		DOCK	Case Docketed to Examiner in GAU			0
19	08/24/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
18	08/24/2004		DOCK	Case Docketed to Examiner in GAU			0
17	07/01/2004		LET	Miscellaneous Incoming Letter			0
15	03/23/2004		COMP	Application Is Now Complete			0
10	03/23/2004		COMP	Application Is Now Complete			0
16	03/22/2004		WRDIPE	Application Return from OIPE			0
14	03/22/2004		ROIPE	Application Return TO OIPE			0
13	03/22/2004		WRDIPE	Application Return from OIPE			0
12	03/22/2004		ROIPE	Application Return TO OIPE			0
11	03/22/2004		WRDIPE	Application Return from OIPE			0
9	03/22/2004		ROIPE	Application Return TO OIPE			0
8	03/22/2004		COMP	Application Is Now Complete			0
7	03/19/2004		OIPE	Application Dispatched from OIPE			0
5	03/02/2004		L128	Cleared by LBR (LARS)			0
4	02/17/2004		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	02/17/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	01/02/2004		SCAN	IFW Scan & PACR Auto Security Review			0
6	12/12/2003		NPRQ	PGPub nonPub Request			0
1	12/12/2003		TEXX	Initial Exam Team on			0
0.5	12/12/2003		EFIL	Filing date			0

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